IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No 120 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

MEHBUBBHAI AKBARBHAI DIWAN

Appearance:

1. Criminal Appeal No. 120 of 2001

MR DESAI, ADDL.PUBLIC PROSECUTOR for Petitioner No. 1

..... for Respondent No. 1

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 14/10/2002

ORAL JUDGEMENT

Heard learned APP Mr. Desai. The State has preferred this appeal against judgement and order recorded by

learned JMFC, Karjan in Criminal Case No. 86 of 1999, acquitting the respondent, of the offences punishable under Sections 332, 323 and 294 of IPC. Mr. Desai submitted that the trial Court has committed an error in evaluating the evidence and recording acquittal. He has taken this Court through the evidence, copy of which has been provided to this Court.

2. He however, could not meet with the observations made by the trial Court while recording the reasons for acquittal.

3. It is undisputed that the complaint is lodged at a very belated stage. The complaint is lodged by persons other than the victim. Apart from this, even in conduct of trial there are lacunaes, namely that the FIR is not proved and not exhibited; that there were about 20 to 25 independent persons who had gathered at the time of the incident, but none of them has been examined and the witnesses who have been examined are interested and connected witnesses; panch-witnesses have not supported the prosecution case and therefore, there appears no justifiable reason for interfering with the impugned order by entertaining this appeal against acquittal. The appeal must therefore fail. Same is dismissed.

(A.L.Dave, J.)
*/Mohandas